

## Closing Statements

A closing statement summarizes the evidence you presented to support your case. Your closing statement should be brief, direct, and to-the-point. At the close, the Hearing Officer should be told exactly what you are requesting. As before, the Agency's statement is heard first, followed by the Respondent's statement. A closing statement is optional.

## The Hearing is Closed

### The Notice of Decision

The Hearing Officer will submit a Notice of Proposed Decision in writing to the County Agricultural Commissioner. The County Agricultural Commissioner will review and adopt or not adopt the Proposed Decision. You will receive a copy of the Commissioner's Notice of Decision and Order within approximately 45 days.

## Appeals

The Commissioner's Notice of Decision and Order will include appeal procedures.

### OTHER HEARING DETAILS....

- The hearing will be tape-recorded. The county does not provide transcripts. If you wish, you may make your own arrangements to have transcripts made at your expense. You must also coordinate this activity with the County Agricultural Commissioner at least five days before the hearing.
- The Hearing Officer will administer an oath to all witnesses.
- The Hearing Officer will keep any items submitted as evidence until the case is closed and the Commissioner's Notice of Decision is issued.
- The hearing process may vary at the Hearing Officer's discretion.
- Hearing document titles may slightly vary by county.

### YOU CAN REVIEW THE EVIDENCE

If you wish to review the Agency's evidence before the hearing, please call the office of the County Agricultural Commissioner to make an appointment to see the evidence soon after you receive a Notice of Proposed Action.

### HEARING DATES AND CHANGES

If you have any questions about your hearing date or time, please call the office of the County Agricultural Commissioner.

Any changes to your hearing date must be requested in writing and received by the agency five days before your hearing date, except in cases of emergency.

### ACCESSIBILITY OF THE HEARING LOCATION

Hearing locations must be accessible to persons with disabilities. If you have special needs that require reasonable accommodation, check with the office of the County Agricultural Commissioner in advance to assure accessibility.

This brochure has been prepared by the California Department of Pesticide Regulation for use by County Agricultural Commissioners when initiating administrative hearings relating to Pesticide Use Enforcement Activities. Additional copies of this brochure are available to County Agricultural Commissioners via the forms requisition process.

Preparing for Your Administrative Hearing  
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## Preparing for Your Administrative Hearing

You have requested an opportunity to be heard at an administrative hearing regarding alleged violations pertaining to pesticide use or pest control operations. At the hearing, you will have an opportunity to present evidence and testimony to refute the violation(s) presented in the Notice of Proposed Action.

Your hearing will be held before a Hearing Officer who will make a decision based upon evidence and testimony presented at the hearing. The role of the Hearing Officer is to determine if the violation(s) occurred and whether the penalty was placed at the correct level.

Please come and present all evidence and testimony at the time of the hearing. You can review all evidence before the hearing. Evidence submitted will be evaluated by the Hearing Officer for its credibility and relevance. Additional evidence and testimony may not be introduced after the hearing has concluded. All hearings are tape-recorded.

If you request a hearing and do not appear, the hearing will proceed as scheduled and the Hearing Officer will base the decision on the Agency's evidence only; you will forfeit your rights to an appeal.

## Who's Who

The Agency is the county government agency administered by the County Agricultural Commissioner. Counties can have different names for this agency. The agency can be called the County Department of Agriculture; County Department of Agriculture, Weights and Measures; County Department of Agriculture and the Environment; or some other similar name.

The Advocate is the person who presents the case for the Agency.

The Hearing Officer is the person who will be making a decision in this matter. The Hearing Officer may be the County Agricultural Commissioner, a county or State employee, or any other person chosen by the County Agricultural Commissioner to hear the case fairly, impartially, and without bias.

The Respondent is the person or business charged with the violation(s).

The Respondent:

- May be represented by an attorney
- Is entitled to review the evidence
- Is entitled to question witnesses on relevant matters
- Is entitled to produce evidence in his/her behalf
- Is entitled to full and fair consideration of relevant evidence by an impartial hearing officer
- Is entitled to an appeal if he/she participates in the hearing
- Is entitled to hear the reasons for the fine amount or penalty, **AND**
- Any penalty or fine action taken against the RESPONDENT must be based upon sufficient and competent evidence contained in the hearing record.

## The Pre-Hearing Conference

Immediately before the hearing, you will have an opportunity to meet with the Agency and the Hearing Officer. At this time, you may be able to agree on specific facts concerning all or part of your case. The pre-hearing conference generally will proceed as follows:

- Introductions and filling out the "Sign-in" or "Appearance" sheet.
- The Hearing Officer will explain the procedural rules. If you have any questions about specific hearing procedures, you should bring them up at this time.
- You and the Agency discuss the violations in the Notice of Proposed Action. Violations you acknowledge occurred can be agreed to (stipulated) and included as part of the hearing record.
- Bring any evidence you have to support your case. Evidence is testimony, writings, material objects, or other things that are offered to prove the existence or nonexistence of a fact. Examples of evidence include documents such as pesticide labels, licenses or records, and equipment. Please bring three copies of any document.
- To simplify the hearing process, evidence items accepted as relevant and truthful by both the Respondent and the Agency can also be agreed to or stipulated to.

## The Hearing Process

During the hearing, violations not agreed to in the pre-hearing conference will be discussed. Clearly state your objectives (for example, you may want the charges dismissed or the fines reduced) and present evidence to support your request. Fines set at the minimum level cannot be reduced if the Hearing Officer determines that the violations occurred.

### The Hearing Begins

- The Hearing Officer will turn on the tape recorder and state the date and time.
- All persons present will identify themselves and spell their names for the record.
- The Hearing Officer states, "Prior to the hearing, a pre-hearing conference was held and the parties stipulated to the following.... Is that correct?"

### Opening Statements

An opening statement is a summary of what you intend to show or prove. An opening statement is optional. The Agency will make their opening statement first, followed by the Respondent.

### Presentation of Testimony and Evidence

Since the Agency has the burden of proving its case, the Agency presents its case first. Testimony customarily begins with the inspector involved stating his or her observations. When finished, you are allowed to ask the inspector questions (this is called cross-examination). The Agency's presentation of testimony and evidence followed by your cross-examination continues until all desired evidence has been brought forth. You will then present your case in the same manner. Throughout this process, the Hearing Officer may ask questions of either party to clarify points.